UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Christi Engel	§	
	§	
	§	**Civil Action No.**
	§	
v	§	**5:17-cv-852**
	§	
	§	
	§	
Portfolio Recovery	§	
	§	
Associates, LLC	§	
	§	

Plaintiff's Original Complaint

Introduction

1. Congress passed the Fair Debt Collections Practices Act to protect consumers from abusive debt collection practices. Congress found these practices contributed to marital instability, loss of jobs, and personal bankruptcies. Congress intended to eliminate abusive debt collection practices and level the playing field for debt collectors who refrain from abusive collection practices.

2. To prohibit deceptive practices the FDCPA, at 15 U.S.C. § 1692e, outlaws the use of false, deceptive, and misleading practices. It also include a non-exhaustive list of per-se violations. *See* 15 U.S.C. § 1692e(1)-(16). These include: making a false representation of the character, amount, or legal status of any debt, 15 U.S.C. § 1692e(2)(A); and the use of any false representation or deceptive means to collect or attempt to collect any debt, 15 U.S.C. § 1692e(2)(10).

3. The Texas Act similarly prohibits debt collectors from misrepresenting the amount of a debt in a judicial proceeding, Tex. Fin. Code § 392.304(a)(8); and using false representations or deceptive means to collect a debt, Tex. Fin. Code § 392.304(a)(19).

4. Plaintiff seeks actual damages, statutory damages, attorney's fees, costs, and all other relief, equitable or legal in nature, as deemed appropriate by this Court, pursuant to the FDCPA, the Texas Act, and all other common law or statutory regimes.

Parties

5. Christi Engel is a natural person.

6. At all times relevant to this complaint Engel resided in New Braunfels, Comal County, Texas.

7. At all times relevant to this complaint, Defendant Portfolio Recovery Associates, LLC is a for-profit corporation existing pursuant to the laws of Delaware.

8. Plaintiff is informed and believes and on that basis alleges that Portfolio maintains its principal office at 120 Corporate Blvd., Ste 100, Norfolk, VA 23502-4952. And its registered agent is Corporation Services Company at 211 E. 7th St., Suite 620, Austin, TX 78701.

9. Portfolio is a debt collector as defined by 15 U.S.C. § 1692a(6).

10. Portfolio is a third party debt collector as defined by Tex. Fin. Code § 392.001(7).

Jurisdiction & Venue

11. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. §§ 1331 and 1337.

12. Supplemental jurisdiction for Plaintiff's state law claims arists under 28 U.S.C. § 1367.

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391(b) as a substantial part of the events giving rise to Plaintiff's claims occurred within this federal district and division, and because the Defendant is subject to personal jurisdiction in the State of Texas at the time this action is commenced.

Facts

14. Portfolio collects, and attempts to collect, defaulted debts incurred, or alleged to have been incurred, for personal, family, or household purposes on behalf of creditors using the U.S. mail, telephone, and Internet.

15. Portfolio is, at all times relevant to this complaint, engaged in the practice of debt collection as that term is defined by Tex. Fin. Code § 392.001(5).

16. Portfolio is a debt collector as defined by 15 U.S.C. § 1692a(6).

17. Portfolio is a debt collector as defined by Tex. Fin. Code § 392.001(6).

18. Portfolio is a third party debt collector as defined by Tex. Fin. Code § 392.001(7).

19. Engel is alleged to owe a debt arising from a credit card.

20. Engel used the credit card to make purchases for her household. Eventually she defaulted on her credit card agreement.

21. Engel's defaulted debt was sold to Portfolio.

22. Portfolio called Engel in March of 2017 demanding payment. Engel was unable to afford any of the offered payment arrangements. Portfolio continued to call.

23. In June 2017 Engel agreed to make payments to pay off the debt.

24. On June 10 Portfolio accepted a payment from Engel.

25. On July 5 Portfolio filed suit against Engel for the full amount of the debt.

26. On July 10 and August 10 Portfolio accepted payments from Engel.

27. In exchange for Engel's payments Portfolio agreed to not file suit. Engel honored her agreement and Portfolio filed suit for the entire amount of the debt without crediting her for her timely payments.

First Cause of Action – Violation of the Fair Debt Collection Practices Act

28. Portfolio violated the FDCPA. Defendant's violations include:

a. Using false, deceptive, and misleading representations or means in connection with the collection of an alleged debt in violation of 15 U.S.C. § 1692e; and

b. Using false representations and/or deceptive means to collect or attempt to collect an alleged debt or to obtain information concerning a consumer in violation of 15 U.S.C. § 1692e(10).

Second Cause of Action – Violation of the Texas Finance Code Chapter 392

29. Portfolio violated Texas Finance Code. Defendant's violations include

a. Misrepresenting the amount of a consumer debt in a judicial proceeding in violation of Tex. Fin. Code § 392.304(a)(8).

b. Making false representations in an effort to collect a debt in violation of Tex. Fin. Code § 392.304(a)(19); and

Jury Demand

30. Plaintiff demands a trial by jury in this action.

Prayer for Relief

Plaintiff respectfully requests the Court enter judgment in her favor as follows:

a. An award of statutory damages pursuant to 15 U.S.C. § 1692k(1)(2)(A);

b. An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);

c. Attorney's fees, litigation expenses and costs pursuant to 15 U.S.C. § 1692k(a)(3) and Tex. Fin. Code § 392.403(b); and

d. For all such other relief as may be just and proper.

Dated: September 2, 2017 Respectfully Submitted,

/s/William M. Clanton
William M. Clanton
Texas Bar No. 24049436

Law Office of Bill Clanton, P.C.
926 Chulie
San Antonio, TX 78216
210 226 0800
210 338 8660 fax
bill@clantonlawoffice.com